



OFFICE OF THE POLICE COMMISSIONER

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CHAN

July 19, 2010

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Alejandrina Castillo**
Tax Registry No. 928632
Bronx Court Section
Disciplinary Case No. 84346/08

The above named member of the service appeared before Assistant Deputy Commissioner Robert W. Vinal on September 17, 2009 and was charged with the following:

Disciplinary Case No. 84346/08

1. Said Police Officer Alejandrina Castillo, assigned to the 20th Precinct, while on duty, on or about February 5, 2007, did fail and neglect to make proper notifications, to wit, after receiving a report from a member of the community of a firearm observed in plain view, said officer failed to notify the Desk Officer.

P.G. 206-03, Page 1, Paragraph 9

VIOLETIONS SUBJECT TO COMMAND
DISCIPLINE - DISCIPLINARY MATTERS

2. Said Police Officer Alejandrina Castillo, assigned as indicated in specification #1, on or about September 29, 2007, while on duty, did fail and neglect to secure her department locker, to wit, said Officer reported the theft of personal property from her unsecured department locker.

P.G. 206-03, Page 1, Paragraph 23

VIOLETIONS SUBJECT TO COMMAND
DISCIPLINE - DISCIPLINARY MATTERS

3. Said Police Officer Alejandrina Castillo, assigned as indicated in specification #1 on or about and between July 1, 2007 and September 29, 2007, after discovering the theft of personal property from her unsecured department locker on five (5) separate occasions, did fail and neglect to report said thefts to the Desk Officer as required.

P.G. 207-19, Page 1, Paragraph 1

THEFTS FROM DEPARTMENT LOCKERS
COMPLAINTS

4. Said Police Officer Alejandrina Castillo, assigned as indicated in specification #1, on or about October 2, 2007, while on-duty and in uniform, was observed using a personal, unauthorized cell phone without police necessity.

P.G. 206-03, Page 1, Paragraph 35

VIOLETIONS SUBJECT TO COMMAND
DISCIPLINE - DISCIPLINARY MATTERS

5. Said Police Officer Alejandrina Castillo, assigned as indicated in specification #1, on or about November 4, 2007 at approximately 1130 hours, while on-duty and performing a detail in uniform, did accept one (1) tee shirt from a sponsor of the NYC marathon, who was giving the tee shirts to volunteers of the event.

P.G. 206-03, Page 1, Paragraph 35

**VIOLATIONS SUBJECT TO COMMAND
DISCIPLINE-DISCIPLINARY MATTERS**

6. Said Police Officer, Alejandrina Castillo, assigned as indicated in specification #1, on or about November 4, 2007 at approximately 1530 hours, while on-duty, did fail and neglect to secure personal property, to wit, said officer left several articles of clothing and an amount of U.S. currency unattended inside the female's locker room.

P.G. 206-03, Page 1, Paragraph 35

**VIOLATIONS SUBJECT TO COMMAND
DISCIPLINE- DISCIPLINARY MATTERS**

7. Said Police Officer, Alejandrina Castillo, assigned as indicated in specification #1, on or about November 6, 2007 and March 28, 2008, while on-duty, did fail and neglect to notify the Desk Officer when leaving her assigned post, as required.

P.G. 206-03, Page 1, Paragraph 16

**VIOLATIONS SUBJECT TO COMMAND
DISCIPLINE - DISCIPLINARY MATTERS**

8. Said Police Officer, Alejandrina Castillo, assigned as indicated in specification #1, on or about March 6, 2008 at approximately 1030 hours, failed to properly perform her assigned duties, to wit, while assigned to guard a U.S. Army Recruiting Station, said Officer was observed reading a newspaper while sitting in an RMP parked in front of the location.

PG 206-03, Page 1, Paragraph 26

**VIOLATIONS SUBJECT TO COMMAND
DISCIPLINARY MATTERS**

9. Said Police Officer, Alejandrina Castillo, assigned as indicated in specification #1, on or about April 8, 2008, did fail to prepare a Change of Emergency Notification form (PD 451-122), as required.

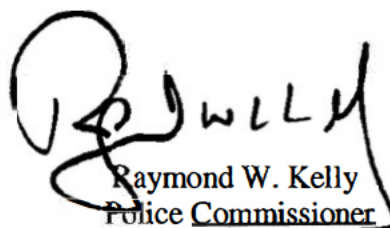
P.G. 203-18, Page 1, Paragraph 1

**EMERGENCY NOTIFICATION
PROCEDURE/RESIDENCE REQUIREMENTS**

In a Memorandum dated April 8, 2010, Assistant Deputy Commissioner Vinal found the Respondent GUILTY of Specification Nos. 1, 2, 3, 4, 5, 6, 7, and 8, and recommended the dismissal of Specification No. 9.

Having read the Memorandum and analyzed the facts of these instant matters, I approve the findings, but disapprove the recommended penalty of the forfeiture of 20 Vacation days, plus One-Year Dismissal Probation.

The conglomeration of misconduct committed by the Respondent is myriad and unacceptable within our para-military organization. Such behavior will not be tolerated. Therefore, a greater penalty consequence than was recommended after trial is merited. Respondent Alejandrina is to forfeit thirty (30) Vacation days and is to be DISMISSED from the New York City Police Department; however, this penalty of dismissal will be held in abeyance pursuant to Section 14-115 (d) of the NYC Administrative Code for a period of one year, during which time the Respondent will remain on the force at the Police Commissioner's discretion and may be terminated at any time without a further hearing.



Raymond W. Kelly
Police Commissioner



POLICE DEPARTMENT

April 8, 2010

MEMORANDUM FOR: Police Commissioner

RE: Police Officer Alejandrina Castillo
Tax Registry No. 928632
Bronx Court Section
Disciplinary Case No. 84346/08

The above-named member of the Department appeared before me on
September 17, 2009, September 18, 2009, November 24, 2009, and January 11,
2010, charged with the following:

1. Said Police Officer Alejandrina Castillo, assigned to the 20th Precinct, while on duty, on or about February 5, 2007, did fail and neglect to make proper notifications, to wit, after receiving a report from a member of the community of a firearm observed in plain view, said officer failed to notify the Desk Officer.

P.G. 206-03, Page 1, Paragraph 9 – VIOLATIONS SUBJECT TO COMMAND
DISCIPLINE DISCIPLINARY MATTERS

2. Said Police Officer Alejandrina Castillo, assigned as indicated in specification #1, on or about September 29, 2007, while on duty, did fail and neglect to secure her department locker, to wit, said Officer reported the theft of personal property from her unsecured department locker.

P.G. 206-03, Page 1, Paragraph 23 – VIOLATIONS SUBJECT TO COMMAND
DISCIPLINE DISCIPLINARY MATTERS

3. Said Police Officer Alejandrina Castillo, assigned as indicted in specification #1 on or about and between July 1, 2007 and September 29, 2007, after discovering the theft of personal property from her unsecured department locker on five (5) separate occasions, did fail and neglect to report said thefts to the Desk Officer as required.

P.G. 207-19, Page 1, Paragraph 1 – THEFTS FROM DEPARTMENT LOCKERS
COMPLAINTS

COURTESY • PROFESSIONALISM • RESPECT

4. Said Police Officer Alejandrina Castillo, assigned as indicated in specification #1, on or about October 2, 2007, while on-duty and in uniform, was observed using a personal, unauthorized cell phone without police necessity.

P.G. 206-03, Page 1, Paragraph 35 – VIOLATIONS SUBJECT TO COMMAND
DISCIPLINE DISCIPLINARY MATTERS

5. Said Police Officer Alejandrina Castillo, assigned as indicated in specification #1, on or about November 4, 2007 at approximately 1130 hours, while on-duty and performing a detail in uniform, did accept one (1) tee shirt from a sponsor of the NYC marathon, who was giving the tee shirts to volunteers of the event.

P.G. 206-03, Page 1, Paragraph 35 – VIOLATIONS SUBJECT TO COMMAND
DISCIPLINE DISCIPLINARY MATTERS

6. Said Police Officer Alejandrina Castillo, assigned as indicated in specification #1, on or about November 4, 2007 at approximately 1530 hours, while on-duty, did fail and neglect to secure personal property, to wit, said officer left several articles of clothing and an amount of U.S. currency unattended inside the female's locker room.

P.G. 206-03, Page 1, Paragraph 35 – VIOLATIONS SUBJECT TO COMMAND
DISCIPLINE DISCIPLINARY MATTERS

7. Said Police Officer Alejandrina Castillo, assigned as indicated in specification #1, on or about November 6, 2007 and March 28, 2008, while on-duty, did fail and neglect to notify the Desk Officer when leaving her assigned post, as required.

P.G. 206-03, Page 1, Paragraph 16 – VIOLATIONS SUBJECT TO COMMAND
DISCIPLINE DISCIPLINARY MATTERS

8. Said Police Officer Alejandrina Castillo, assigned as indicated in specification #1, on or about March 6, 2008 at approximately 1030 hours, failed to properly perform her assigned duties, to wit, while assigned to guard a U.S. Army Recruiting Station, said Officer was observed reading a newspaper while sitting in an RMP parked in front of the location.

P.G. 206-03, Page 1, Paragraph 26 – VIOLATIONS SUBJECT TO COMMAND
DISCIPLINARY MATTERS

9. Said Police Officer Alejandrina Castillo, assigned as indicated in specification #1, on or about April 8, 2008, did fail to prepare a Change of Emergency Notification form (PD 451-122), as required.

P.G. 203-18, Page 1, Paragraph 1 – EMERGENCY NOTIFICATION
PROCEDURES/RESIDENCE
REQUIREMENTS

The Department was represented by Katie O'Connor, Esq., Department Advocate's Office, and the Respondent was represented by Eric Sanders, Esq.

The Respondent, through her counsel, entered a plea of Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

The Respondent is found Guilty of Specification Nos. 1 through 8. It is recommended that Specification No. 9 be Dismissed.

SUMMARY OF EVIDENCE PRESENTED

The Department's Case

The Department called Deputy Inspector Keith Spadaro, Lieutenant Martin Steiger, Captain Mark Molinari, Sergeant Gregory Butler, Sergeant Yvette Camarena, Police Administrative Aide Denise Williams, Sergeant Paul Cortright, Inspector James Kehoe, and Sergeant Gustavo Rodriguez as witnesses.

Deputy Inspector Keith Spadaro

Deputy Inspector Keith Spadaro, an 18-year member of the service who has been assigned as commanding officer, 20 Precinct since 2006, recalled that on September 29, 2007, he was informed that the Respondent had telephoned the Internal Affairs Bureau

(IAB) and reported that over a period of time items had been stolen from her locker inside the female locker room at the 20 Precinct. Spadaro testified that the Respondent was required to comply with the Patrol Guide requirement that she secure her locker to prevent thefts. The Respondent was also required to comply with the Patrol Guide requirement that she immediately report any theft from her locker at the time the theft took place to the Desk Officer. Because the Respondent had used an unsecured locker and because she had never reported these thefts to anyone at the 20 Precinct, Spadaro decided to issue the Respondent command disciplines (CDs).

On October 2, 2007, he saw the Respondent, who was on-duty and in uniform, standing in front of the 20 Precinct having a telephone conversation on her personal cell phone. Spadaro decided to issue the Respondent a CD.

On cross-examination, Spadaro acknowledged that when he saw the Respondent outside the 20 Precinct using a personal cell phone, he did not stop and ask her why she was making a personal call at that time. Spadaro acknowledged that these Specifications had all originated as CDs and could have been individually adjudicated as CDs rather than being converted into formal charges. Spadaro denied that he had "stockpiled" CDs because he wanted to punish the Respondent by bringing formal disciplinary charges against her. Spadaro testified that the Patrol Guide provides a CO with 60 days from the date a CD is issued to adjudicate a CD. Spadaro further testified that the Patrol Guide states that when a police officer has accumulated three command disciplines within a six month period, the CO must discuss with the borough commander whether charges and specifications should be brought.

Lieutenant Martin Steiger

Lieutenant Martin Steiger, who is presently assigned to the Counterterrorism Bureau, testified that from 2007 to 2008 he was assigned as the Integrity Control officer (ICO) at the 20th Precinct. In April, 2008, the Respondent applied for a parking permit and it was determined that her residence information on various Department records did not match. Steiger testified that he then issued the Respondent a CD because she is required to keep her emergency notification information up to date.

On cross-examination, Steiger testified that the Respondent did prepare and submit a Change of Emergency Notification form (PD 451-122) regarding her change of address but the CO of the Personnel Data Unit returned this form to Inspector Spadaro at the 20 Precinct because the form contained "Illegible information" (RX A). Steiger confirmed that it is not uncommon for uniformed members assigned to the 20 Precinct to leave personal items of clothing unattended outside of their lockers.

Captain Mark Molinari

Captain Mark Molinari, who is presently assigned to the 120 Precinct, testified that in 2007 he was a lieutenant assigned as a platoon commander at the 20 Precinct. On November 4, 2007, he personally conducted an inspection of the female locker room and observed that numerous items of personal clothing had been left outside of lockers. He directed Sergeant Yvette Camarena to pick up and voucher the clothing that had been left outside of lockers. It was determined that these personal clothing items belonged to the Respondent.

Sergeant Gregory Butler

Sergeant Gregory Butler, who is assigned to OCCB Investigations Unit, testified that he was assigned to investigate a complaint that the Respondent, while she was on duty and in uniform, had accepted a tee-shirt from a sponsor of the NYC Marathon who was giving the tee-shirts to volunteers. Butler testified that the Patrol Guide prohibits uniformed members on duty from accepting any gift from a civilian because it creates the appearance of impropriety. The Respondent told Butler that she had accepted the shirt for her daughter who was a volunteer at the NYC Marathon. Butler decided to issue the Respondent a CD.

Sergeant Yvette Camarena

Sergeant Yvette Camarena, assigned to the 20 Precinct, testified that on November 4, 2007, Lieutenant Molinari, who had just conducted an inspection of the female locker room, directed her to pick up and voucher items of personal clothing that had been left outside of lockers. In the pocket of one clothing item she found four one dollar bills [Department's Exhibit (DX) 1].

Camarena further testified that on November 6, 2007 and March 28, 2008, she was assigned as the Desk Officer at the 20 Precinct and that the Respondent had failed to notify her when she left her assigned post on those two dates. The Respondent was assigned to an Election Day detail on November 6, 2007, but that she had returned to the 20 Precinct without notifying Camarena that she was inside the stationhouse. The Respondent was assigned as Telephone Switchboard Operator (TSO) on March 28, 2008,

when she left her assigned post to take her meal without notifying Camarena that she was leaving the TS desk.

On cross-examination, Camarena testified that it is not uncommon for uniformed members assigned to the 20 Precinct to leave personal items of clothing unattended outside of their lockers.

Police Administrative Aide Denise Williams

Police Administrative Aide Denise Williams, assigned to the 20 Precinct, testified that on March 28, 2008, the Respondent left the TS desk and told her that she was going on meal. Williams replaced the Respondent as the TSO. About 15 minutes later, Camarena told Williams to call the Respondent on her cell phone and tell her to return to the 20 Precinct. Williams called her and the Respondent returned to the 20 Precinct.

Sergeant Paul Cortright

Sergeant Paul Cortright, assigned to the 20 Precinct, testified that on September 29, 2007, the Respondent reported for the first time that personal property had been stolen from an unsecured Department locker she had been using to store personal items on five separate occasions beginning on July 1, 2007. At her official Department interview, the Respondent stated that when she first noticed that items were missing from her locker she was not certain that these items had been stolen, but that after the second time she noticed that items were missing from her locker, she knew that it was the result of a theft. Since the Respondent had not promptly reported this theft, the Respondent

was issued a CD for failing and neglecting to secure her Department locker and for failing to immediately report the thefts to the Desk Officer.

Inspector James Kehoe

Inspector James Kehoe, who is assigned to the Counterterrorism Bureau, testified that on March 6, 2008, the Army Recruiting Station located on 42nd Street in Manhattan was the target of a bomb attack. Uniformed officers were immediately detailed to guard and provide a visible police presence at all of the other Army Recruiting Stations in Manhattan in case further attacks were planned. Inspector Kehoe then drove to all of the other Army Recruiting Stations in Manhattan to insure that the uniformed officers who had been detailed to guard these other Army Recruiting Stations were providing a visible police presence at the Recruiting Stations. When Inspector Kehoe arrived at the 86th Street Army Recruiting Station, he saw that the female uniformed officer who had been detailed to guard it was not standing outside the Recruiting Station. He saw that she was seated inside an RMP reading a newspaper. Inspector Kehoe approached the officer who identified herself as Police Officer Alejandrina Castillo.

Since she had failed to properly perform her assigned duties at the 86th Street Army Recruiting Station, Inspector Kehoe requested that Spadaro issue the Respondent a CD for this violation.

Sergeant Gustavo Rodriguez

Sergeant Gustavo Rodriguez, assigned to Intelligence Operations and Analysis Section, testified that on February 5, 2007, he was assigned as the Desk Officer at the 20

Precinct when he heard a radio transmission about a gun being displayed at a location within the confines of the 20 Precinct. He confronted the Respondent who was assigned as the TSO. The TS is located next to the front desk. The Respondent told him that a civilian had entered the 20 Precinct, walked up to the TS desk and told the Respondent that a person had displayed a gun. The Respondent said that she had called 911 and then she went on her meal period.

He requested that Spadaro issue the Respondent a CD for failing to make a proper notification to the Desk Officer after she had received a report from a member of the community that a firearm had been observed in plain view.

The Respondent's Case

The Respondent testified on her own behalf.

The Respondent

The Respondent testified that she was assigned to the 20 Precinct in March, 2002, but that she "got restricted for psychological reasons in 2004" and "was sent to VIPER 4" for a time before she was returned to the 20 Precinct and resumed her patrol duties.

With regard to Specification No. 1, the Respondent recalled that on February 5, 2007, she was assigned as the TSO. The TS desk is located next to the front desk. The Desk Officer was Sergeant Rodriguez. The Respondent's meal relief had arrived at the TS desk and the Respondent had already signed the TS log that she was going to meal, when a civilian approached the TS desk and told the Respondent and her relief that there was a gun that looked like a fake gun on the street. Since Sergeant Rodriguez was away

from the front desk at the time the Respondent received this information, the Respondent called 911 because "it's very dangerous to have a gun on the street," and she entered the civilian's report about the gun into the TS log. The Respondent's meal replacement then took over at the TS desk and the Respondent left and went on her one hour meal period. When she returned to the TS desk, the TS log was gone. Sergeant Rodriguez confronted her and told her that she should have informed him about the gun report which had been radio transmitted to 20 Precinct sector cars in the field as the result of the Respondent's 911 call. The Respondent testified that she and Sergeant Rodriguez found the TS log in a garbage can.

With regard to Specification Nos. 2 and 3, the Respondent testified that she had used two lockers in the female locker room at the 20 Precinct. She used one of these lockers to store her Department uniforms and equipment. She had a lock on this locker. She used the other locker to store personal items. This locker she "left open." Between July 1, 2007 and September 29, 2007, the Respondent noticed "five times" that items of her personal property that she believed she had placed inside the locker in which she stored personal items appeared to be missing. She did not report these missing items because she was "unsure" whether these items had actually been stolen.

With regard to Specification No. 4, the Respondent recalled that on October 2, 2007, while she was on-duty and in uniform, she made a call on her personal cell phone. The Respondent asserted that the only reason she placed this call was because her special needs daughter, who has Downs syndrome, had an emergency and she needed to speak to her child's physician right away and to arrange for someone to transport her daughter to the doctor's office.

With regard to Specification No. 5, the Respondent recalled that on November 4, 2007 at 1130 hours, she was on duty and in uniform assigned to the NYC Marathon detail. After the event ended, the Respondent accepted a tee-shirt from a sponsor of the NYC Marathon who was giving the tee-shirts to volunteers. She testified that she took the shirt for her daughter who was a member of her high school band which had played at the event.

With regard to Specification No. 6, the Respondent admitted that on November 4, 2007, she left personal clothing outside of her locker in the female locker room. The Respondent testified that uniformed members assigned to the 20 Precinct regularly left personal items of clothing unattended outside of their lockers.

With regard to Specification No. 7, the Respondent recalled that she was assigned to the Election Day detail on November 6, 2007. When she returned to her command that day to take her meal she notified the Desk Officer that she was inside the stationhouse. The Respondent also recalled that she was on duty assigned as the TSO on March 28, 2008. When her relief arrived at the TS desk, she left to take her meal period because she was permitted to take her meal "whenever" as long as the TS desk was covered.

With regard to Specification No. 8, the Respondent recalled that she was assigned on March 6, 2008 to a stationary post which is an RMP located outside the 86th Street Army Recruiting Station. While she was seated inside the RMP, she had a newspaper on the dashboard but she was not reading this newspaper. A supervisor who identified himself as Inspector Kehoe approached her and accused her of reading the newspaper.

With regard to Specification No. 9, the Respondent recalled that she prepared and submitted a Change of Emergency Notification form (PD 451-122) as she was required to

do and that she was never notified that the PD 451-122 she had submitted had been returned to her command because the writing on it was supposedly illegible (RX A).

On cross-examination, the Respondent admitted that on November 4, 2007, inside the pocket of one of the articles of her personal clothing that she left unattended inside the female locker room contained four dollars in cash. The Respondent acknowledged that she knew that she had been assigned on March 6, 2008, to guard the 86th Street Army Recruiting Station because the 42nd Street Army Recruiting Station had just been bombed, but that no one told her that she was supposed to stand near the Recruiting Station and that she was not supposed to be seated inside the RMP at that location.

FINDINGS & ANALYSIS

Introduction

Respondent's counsel argued that these charges should be dismissed because these Specifications originated as command disciplines (CDs) and should have been adjudicated as CDs rather than being converted into formal charges. Respondent's counsel contended that the Respondent's CO, Deputy Inspector Spadaro, purposely "stockpiled" CDs because he wanted to punish the Respondent by compiling these CDs into a set of disciplinary charges. Respondent's counsel's argument is not persuasive.

Since Patrol Guide section 206-02 requires a CO to perform a number of CD-related tasks prior to adjudicating a CD, this Patrol Guide section provides that a CO has 60 days from the date a CD is issued to adjudicate a CD. In addition, Deputy Inspector Spadaro was required to comply with Patrol Guide section 206-03 which mandates that where a member has accumulated three command disciplines with a six month period, the

member's CO "must confer with the borough adjutant...to determine if charges and specifications should be instituted."¹

Here, the eight acts of misconduct the Respondent is charged with under Specification Nos. 2 through 9 were all committed between September 29, 2007 and April 8, 2008, a time span of only six months, and five of these CDs were issued during a two month period. Thus, the decision as to whether charges and specifications should be instituted against the Respondent regarding these CDs was not Spadaro's alone but was made only after conferral with the borough adjutant as required.

Finally, the record does not support the Respondent's contention that all of these charges are solely the result of Spadaro's alleged animus towards the Respondent. It was Sergeant Gregory Butler, who is assigned to OCCB Investigations, who decided to issue the Respondent a CD for accepting a tee-shirt from a sponsor of the NYC Marathon while she was on duty and in uniform. Also, the charge that she went to meal without telling the Desk Officer that a civilian had entered the 20 Precinct and reported a gun on the street was initiated by Sergeant Rodriguez; the charge that, on two occasions, she failed to notify the Desk Officer when she left her assigned post was initiated by Sergeant Camarena; the charge that she left personal clothing and \$4.00 in cash outside of her locker in the female locker room was initiated by Lieutenant Molinari (DX 1); and the most serious charge contained in these Specifications, that she failed to properly perform her assigned duties when she was detailed to the 86th Street Army Recruiting Station, was initiated by Inspector Kehoe of the Counterterrorism Bureau. It was Kehoe who requested that the Respondent be issued a CD.

¹ On page 2 under "Additional Data."

I will now analyze the evidence presented at trial regarding these charges.

Specification No. 1

It is charged that on February 5, 2007, the Respondent failed to make a proper notification in that after she received a report from a member of the community that a firearm had been observed in plain view, she failed to notify the Desk Officer, Sergeant Rodriguez. The Respondent admitted that she went to meal without telling the Desk Officer, Sergeant Rodriguez, that a civilian had entered the 20 Precinct and told the Respondent that there was a gun on the street at a location within the confines of the 20 Precinct. Since the Respondent was assigned as the TSO and was seated near the front desk, there is no excuse for the Respondent's failure to immediately inform the Desk Officer about this gun on the street report.

The fact that the Respondent called 911 to report the gun complaint before she went to meal, and the fact that she entered the gun complaint into the TS log, does not mitigate her failure to immediately relay this important information, which the Respondent admitted could have constituted a dangerous situation, to the Desk Officer. If Sergeant Rodriguez was momentarily away from the desk at the time the Respondent received this gun notification, she should have waited until he returned to the desk, or sought him out after her meal relief arrived at the TSO desk, before she left the front desk area to go upstairs to take her one hour meal period.

The Respondent is found Guilty.

Specification Nos. 2 and 3

It is charged that between July 1, 2007 and September 29, 2007, the Respondent failed and neglected to secure her department locker and that she failed to report to the Desk Officer that her personal property had been stolen from her unsecured department locker until after thefts of personal property from her unsecured department locker had occurred on five separate occasions.

The Respondent was required to comply with the Patrol Guide mandate that she secure her locker. The Respondent admitted she failed to secure the locker she used to store her personal property. The Respondent offered no explanation for why she did not obtain a lock to place on the second locker she used in the locker room. Under Patrol Guide section 206-03(23) it is a violation for a member to fail "to have locker secured." Thus, it is no defense to this charge that the Respondent stored her Department uniforms and equipment in a separate, secured locker.

The Respondent asserted that she did not report to the Desk Officer that personal property had been stolen from her unsecured department locker after the first, second, third and even fourth time she noticed that property was missing because she was unsure whether someone had actually stolen the property on any of these occasions.

Immediately after the first time that she noticed that items were missing from her unsecured locker, she should have checked to determine whether she had brought the property home, left it in her car or otherwise misplaced it. If someone was going into her locker and stealing property, the Respondent had a duty to report this as soon as she was sure that an item had been taken from her locker.

The Respondent is found Guilty.

Specification No. 4

It is charged that on October 2, 2007, while she was on-duty and in uniform, the Respondent used her personal, unauthorized cell phone without police necessity.

Inspector Spadaro's testimony that he observed the Respondent using a cell phone while she was on-duty and in uniform was corroborated by the Respondent who admitted that she made a call on her personal cell phone while standing in front of the stationhouse.

The Respondent asserted that the only reason she used her cell phone was because her special needs daughter, who has Downs syndrome, had an emergency and she needed to speak to her child's physician right away and, because the Respondent was on duty, she also needed to contact someone who could transport her daughter to her physician.

Although the circumstances the Respondent presented serve to mitigate her misconduct (see Penalty section), she should have sought permission from a supervisor before she used her personal cell phone.

The Respondent is found Guilty.

Specification Nos. 5 and 6

It is charged that on November 4, 2007 at 1130 hours, while she was on duty and in uniform assigned to the NYC Marathon detail, the Respondent accepted a tee-shirt from a sponsor of the NYC Marathon who was giving the tee-shirts to volunteers, and that at 1530 hours that day while she was still on duty, she failed to secure her personal

property in that she left several articles of clothing and U.S. currency unattended inside the female locker room.

The Respondent admitted that she accepted the offer of a NYC marathon tee shirt but she asserted that she only took the shirt for her daughter who was a member of her high school band which played at the NYC Marathon. Even if I credit the Respondent's claim that she accepted the shirt on behalf of her daughter, the Respondent was aware that uniformed members on duty are never allowed to receive any gift from a civilian because it creates the appearance of impropriety and can result in a complaint from a disgruntled civilian who misperceives that a police officer is receiving something only because he or she holds the public office of police officer, which is exactly what occurred here.

The Respondent also admitted that she left clothing unattended inside the female locker room and that she left four dollars in the pocket of one of these items of clothing. Although both Lieutenant Martin Steiger and Sergeant Camarena corroborated the Respondent's testimony that uniformed members assigned to the 20 Precinct sometimes leave personal items of clothing unattended outside of their lockers, this only serves to mitigate her misconduct (see Penalty section) of improperly failing to secure her personal property.

The Respondent is found Guilty.

Specification No. 7

It is charged that on November 6, 2007, and on March 28, 2008, while she was on duty, the Respondent failed to notify Sergeant Camarena, the Desk Officer, when she left her assigned post.

I credit Camarena's testimony that on both of these occasions, November 6, 2007 and March 28, 2008, she was assigned as the Desk Officer and that the Respondent failed to notify her when she left her assigned post. I reject the Respondent's assertions that when she left her Election Day detail on November 6, 2007 and returned to her command that she notified the Desk Officer that she was inside the stationhouse to take her meal and I reject the Respondent's claim that, when she was assigned as TSO on March 28, 2008, she was permitted to take her meal whenever she felt like it so long as the TS desk was covered.

The Respondent is found Guilty.

Specification No. 8

It is charged that on March 6, 2008, the Respondent failed to properly perform her assigned duties in that she was seated inside an RMP reading a newspaper.

The Respondent corroborated Inspector Kehoe's testimony that she was assigned to a stationary post outside the 86th Street Army Recruiting Station, that she was seated inside the RMP, and that she had a newspaper on the dashboard at the time Inspector Kehoe approached her.

I credit Inspector Kehoe's testimony that he observed the Respondent reading this newspaper instead of performing her duty of preventing an attack on the Recruiting

Station by keeping her eyes and her attention focused on vehicles and pedestrians in the vicinity of the Recruiting Station.

The Respondent is found Guilty.

Specification No. 9

It is charged that on April 8, 2008, the Respondent failed to prepare a Change of Emergency Notification form (PD 451-122) as she was required to do.

Lieutenant Steiger issued the Respondent a CD for failing to keep her emergency notification information up to date. However, it is not disputed that the Respondent did prepare and submit a Change of Emergency Notification form (PD 451-122) regarding her change of address but that the CO of the Personnel Data Unit returned this form to Inspector Spadaro at the 20 Precinct because the form contained "Illegible information" (RX A).

The wording of this charge alleges that the Respondent "failed to prepare a Change of Emergency Notification form (PD 451-122) as she was required to do." It is undisputed that the Respondent did prepare and submit a Change of Emergency Notification form (PD 451-122) and that Inspector Spadaro received actual notice from the CO of the Personnel Data Unit that the Respondent had prepared and submitted a Change of Emergency Notification form (PD 451-122).

It is recommended that Specification No. 9 be Dismissed.

PENALTY

In order to determine an appropriate penalty, the Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 N.Y. 2d 222 (1974).

The Respondent was appointed to the Department on July 2, 2001. Information from her personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Respondent has been found Guilty of eight specifications charging her with a variety of misconduct.

The misconduct she has been found guilty of under Specification Nos. 4, 5 and 6, constitute minor violations which are often punished by a warning and admonishment. Also, the Respondent offered mitigation testimony regarding two of these violations. The Department did not refute the Respondent's claims that she has a daughter who has Downs syndrome, that her daughter had a medical emergency and that the only reason she made unauthorized use of her cell phone while on duty was because she was trying to get someone to transport her daughter to the doctor's office. Neither did the Department refute the Respondent's claim that she accepted the NYC Marathon tee-shirt on behalf of her daughter who was a volunteer at this event.

Also, with regard to Specification No. 6, both Lieutenant Steiger and Sergeant Camarena corroborated the Respondent's claim that it is not uncommon for uniformed members assigned to the 20 Precinct to leave personal items of clothing unattended outside of their lockers.

The misconduct the Respondent has been found guilty of under Specification Nos. 1 and 8 constitute more serious misconduct under the circumstances presented.

The Respondent's failure on February 5, 2007, to notify the Desk Officer that she had received a report from a member of the community that a gun had been observed on the street constitutes more serious misconduct because as the Respondent acknowledged, "it's very dangerous to have a gun on the street." Even though she called 911, her failure could still have resulted in a delayed police response to this potentially dangerous situation. By leaving the TS desk to take her one hour meal period without notifying the Desk Officer about the gun report, the Respondent placed her personal needs ahead of her obligation to properly perform her duties.

Also, the Respondent's failure to properly perform her assigned duties in that she was seated inside an RMP reading a newspaper when she was supposed to be alertly guarding the 86th Street Army Recruiting Station, constitutes more serious misconduct. The Respondent was fully aware that she had been posted to guard the 86th Street Recruiting Station because another Army Recruiting Station in Manhattan had just been the target of a bombing attack. Thus, the Respondent knew that it was important for her to keep her eyes and her full attention focused on vehicles and pedestrians in the vicinity of the Recruiting Station.

As noted above in the Findings & Analysis section, the eight acts of misconduct the Respondent has been found guilty of under Specification Nos. 2 through 8 were all committed within a six month period. This demonstrates that during this period the Respondent consistently failed to comply with Department rules and procedures.

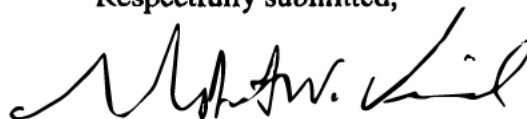
The Assistant Department Advocate recommended that the Respondent be required to serve one year on dismissal probation. Based on the totality of the

Respondent's multiple acts of misconduct, a period on dismissal probation appears to be warranted.

It is, therefore, recommended that the Respondent be DISMISSED from the New York City Police Department, but that the penalty of dismissal be held in abeyance for a period of one year pursuant to section 14-115 (d) of the Administrative Code, during which time she remains on the force at the Police Commissioner's discretion and may be terminated at any time without further proceedings.

The Assistant Department Advocate further recommended that the Respondent be required to forfeit 30 vacation days. All eight of the Specifications the Respondent has been found guilty of originated as command disciplines and could have been adjudicated as Schedule "A" Violations under Patrol Guide section 206-03. Taking this fact into consideration, as well as the mitigating factors cited above regarding Specification Nos. 4, 5 and 6, it is recommended that the Respondent also be required to forfeit 20 vacation days.

Respectfully submitted,



Robert W. Vinal
Assistant Deputy Commissioner – Trials



POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner - Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER ALEJANDRINA CASTILLO
TAX REGISTRY NO. 928632
DISCIPLINARY CASE NO. 84346/08

The Respondent received an overall rating of 4.5 on her 2009 annual performance evaluation, 4.0 on her 2008 annual evaluation and 2.5 on her 2007 evaluation. She has no medals. [REDACTED]
[REDACTED]

She has a prior formal disciplinary record. In 2007, she forfeited ten vacation days after she pleaded guilty to being out of residence without permission while on sick report.

The Respondent was placed in Level II Disciplinary Monitoring on April 23, 2008 based on her overall record. This Disciplinary Monitoring is still active.

For your consideration.



Robert W. Vinal
Assistant Deputy Commissioner – Trials